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F10c



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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION

Local government:	San Luis Obispo County
Local decision:	Approved with conditions (see Exhibit B).
Appeal number:	A-3-SLO-05-014
Applicant:	John Crowther
Appellants:	Coastal Commissioners Sara Wan & Mike Reilly
Project location:	8610 Van Gordon Creek Road, Cambria, San Luis Obispo County. (APN 013-011-015) (See Exhibit A).
Project description:	3,000 square foot farm support residence with attached 1,100 square foot garage as earthquake damage replacement (See Exhibit C).
Substantive file documents:	County local permits PMT2004-01284, PMT2004-01285; San Luis Obispo County Certified Local Coastal Program.
Recommendations:	The project is Appealable; Substantial Issue.

Summary: The County of San Luis Obispo approved two coastal development permits: one for the construction of a 3,000 square foot farm support residence, and another for a 1,100 square foot attached, but structurally independent garage, as earthquake damage replacement. The project is located on a 193-acre agricultural parcel adjacent to Highway One in the North Coast area of San Luis Obispo County. Appellants contend that the project does not conform to the Local Coastal Program (LCP) visual and scenic, and agricultural resource protection policies because the farm support residence has not been sited and designed to minimize adverse visual impacts and does not maintain agricultural lands to the greatest degree feasible. Staff recommends that the Commission determine that the appeal raises a **substantial issue** regarding the proposed project's conformity to LCP provisions related to visual and scenic resources and agriculture. In addition, the County did not notice the project as appealable. Staff recommends that the Commission find that the project is appealable under the Coastal Act and the certified LCP.



California Coastal Commission
March 2005 Meeting in Newport Beach

Staff: J. Bishop Approved by:

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I. Local Government Action

On January 31, 2005, the San Luis Obispo County Planning Director approved two coastal development permits: one for the construction of a 3,000 square foot farm support residence, and another for an attached, but structurally independent, 1,100 square foot garage (PMT2004-01284, PMT2004-01285). A Notice of Final County Action was received on February 7, 2005 stating that the project constitutes non-appealable development. The project was approved without conditions. (See Exhibit B).

Although the Commission initially received a permit review referral in October 2004 for this project from the County, which identified that a Minor Use Permit (MUP) would be processed, the County approved project was ultimately determined by the Planning Director to be a nondiscretionary, non-appealable coastal development permit (MUP's are discretionary permits and, depending on the circumstances of the case, may be appealable under the LCP and the Coastal Act). Commission staff had numerous discussions with the County in an effort to understand why the project was determined not to require a MUP. Notwithstanding Commission staff advice that the project should be processed as a discretionary coastal development permit, the County issued the notice of non-appealable final action.

II. Summary of Appellants' Contentions

The appellants, Commissioners Wan and Reilly, have appealed the final action taken by the County Planning Director on the basis that approval of the project does not conform to the policies and ordinances of the San Luis Obispo County Local Coastal Program (LCP) related to visual and scenic resources; and agriculture. The complete text of the appellants' contentions is cited in the findings and attached as Exhibit C.

III. Standard of Review for Appeals

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility.



As discussed below, this project is appealable because a farm support residence is not the principal permitted use for the Agriculture (AG) land use category under the LCP. Hence, the project is appealable pursuant to Coastal Act section 30603(a)(4).

IV. Recommended Findings on Appealability

There is a dispute between the Executive Director and the County of San Luis Obispo regarding the appealability of this project. The County's interpretation is that the project is principally permitted, because of its designation as an "S-16-P" use by Table O of the LCP. The Executive Director, however, has determined that the project is appealable under Section 30603(a)(4) of the Coastal Act, because Farm Support quarters are not the principally permitted use allowed within the Agricultural land use category by the LCP, as further discussed below.

Chapter 6 of the LCP's Framework for Planning discusses the land use categories and allowable land uses for the coastal zone of San Luis Obispo County. Table O of section C of this Chapter establishes the allowable land uses in the coastal zone of San Luis Obispo County (see Exhibit F). Within each of fourteen land use categories, there are five possible classifications or individual land uses. Thus, the "status" of a use in any particular land use category may be P ("principally-permitted"), A ("allowed"), S ("special"), S-P (not defined), or not allowed (blank in Table O). San Luis Obispo County has stated that this project is not appealable because it is a principally-permitted land use in the agriculture land use category. Farm support quarters are designed S-16-P by Table O, with the number 16 referring to various conditions that must be met to allow the use (see below). Although Table O clearly indicates that farm support quarters are an S-P use rather than a principally permitted use, the County interpretation is that an S-P use should be treated as a principally-permitted land use.

The Commission does not agree with the County's interpretation of the LCP, and finds that the project is appealable under Coastal Act 30603(a)(4) for the following reasons. First, LCP section 23.01.0439(c) reiterates the appeal criteria of Coastal Act 30603(a), including designating development that is not the principally-permitted use for a land use category as appealable. LCP section 23.01.0439(c)(4) states that appealable development includes "[a]ny approved development not listed in the Coastal Table O, Part I of the Land Use Element as a Principal Permitted (P) Use." As just discussed, farm support quarters are not listed as a principally-permitted (P) use. Rather, they are characterized as Special (S-16) for prime soils and S-16-P for non-prime soils. The number 16 is a reference to the special standards that must be met in order to allow a farm support use on agricultural lands. These include requirements to document the need for farm support and the number of employees needed for the farm use, record an agreement limiting occupancy to farm support, meet density requirements, avoid prime lands, etc. (see LCP 23.08.167) Thus, because farm support quarters are not listed in Table O as a principally-permitted use, they are appealable pursuant to LCP section 23.01.0439(c)(4).

The project is also appealable because an S-P use is not equivalent to a principally-permitted use as contemplated by the Coastal Act and standard land use planning principles. In particular, as



discussed, an S-P use must meet certain standards, or conditions, in order to be allowable at all in the land use category. Again, in this case, farm support quarters are not allowed on Agricultural land unless the County action meets certain conditions. The fact that these conditions must be met means that the farm support quarters land use is not a ministerial permit action. In effect, an S-P use is a conditional use. The Commission has previously raised this issue in its adopted Periodic Review of the SLO County LCP, and advised the County to amend its LCP to clarify the principally-permitted uses of each land use category consistent with Coastal Act section 30603(a).

In addition, as discussed in detail in the Substantial Issue Finding, the administrative record for the County's action does not establish that the approved residence is, in fact, a farm support quarters. Although the County has verbally indicated that the applicant has agreed to limit the occupancy of the house, no recorded agreement has been provided supporting a finding of consistency with section 23.08.167. In addition, there is no evidence that the County required the removal of the prior farm support quarters damaged in the earthquake as a condition of building a third residence on this agricultural property. Rather, given the presence of a primary residence and the damaged residence already on the property, nothing in the record contradicts a conclusion that the County approval is for a third residence or, at the very least, that a second residence will remain on the property after the approval. In either case, the approval would conflict with the LCP's Table O because secondary residences are not allowable at all in the Agriculture category and certainly not designated as a principally-permitted use by Table O. Thus, under Table O and Coastal Act 30603(a)(4), the approved development is appealable.

Finally, even if the County were correct that an S-P use could be treated as a principally permitted use, a farm support residence is not "the" principal-permitted use for the Agriculture (AG) land use category under the LCP as required by Coastal Act 30603(a)(4). For purposes of appealability under 30603(a)(4), only one land use may be designated as a principally permitted use not subject to appeal. For non-prime land (where the project is most likely located), there are two uses identified as principally permitted (crop production/grazing and coastal accessways) and 10 uses identified as S-P.¹ These uses occur in four different "land use groups" (Agriculture; Cultural, Education and Recreation; Residential; and Resource Extraction). Thus, even considering the County's argument that S-P uses can be treated as principally permitted, "farm support quarters," which are designated as one of *ten* (10) S-P uses, cannot be "the" principal-permitted for this land use category because the County has not designated a single principal-permitted use. Thus, this project is not "the" principally-permitted land use and therefore is appealable under Coastal Act 30603(a)(4).

¹ Table O of the LCP designates the following 2 uses as principally-permitted: Coastal Accessways and Crop Production & Grazing. The following 10 uses are designated as S-P: Ag Accessory Structures; Nursery Specialties-Non-Soil Dependent; Specialized Animal Facility; Farm Support Quarters; Home Occupations; Mobilehomes; Residential Accessory Uses; Single-Family Dwellings; Temporary Dwelling; and Water Wells & Impoundments.



V. Staff Recommendation on Appealability

The staff recommends that the Commission determine that the coastal development permits granted by San Luis Obispo County **is appealable** to the California Coastal Commission pursuant to Section 30603(a)(4) of the Coastal Act.

MOTION: Staff recommends a “**NO**” vote on the following motion:

“I move that the Commission overturn the Executive Director’s determination that the coastal development permits granted by San Luis Obispo County (PMT2004-01284; PMT2004-01285) are appealable to the California Coastal Commission under section 30603(a)(4) of the Coastal Act.”

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a de novo hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that the coastal development permits **PMT2004-01284 and PMT2004-01285** granted by San Luis Obispo County are appealable to the California Coastal Commission under section 30603(a)(4) of the Coastal Act.

VI. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue** exists with respect to some of the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION: Staff recommends a “**NO**” vote on the following motion:

“I move that the Commission determine that Appeal No. A-3-SLO-05-014 raises **no** substantial issue with respect to the grounds on which the appeal has been filed.”

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a de novo hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-05-014 presents **a substantial issue** with respect to some of the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.



VII. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The project is located adjacent to Highway One, on the northwest side of Van Gordon Creek Road, between Cambria and San Simeon (see Exhibit A). Highway One runs just west of and roughly perpendicular to Van Gordon Creek Road in the vicinity of the site. Van Gordon Creek, on the south side of the property, flows towards the beach meeting the coast at San Simeon Beach State Park. The site consists of one parcel totaling roughly 193 acres. The property is currently used for livestock grazing and also has approximately 24 acres of avocado orchards. The property is designated Agriculture (AG) by the San Luis Obispo certified Local Coastal Program. Combining designations include Streams and Riparian Vegetation, and Geologic Study Area. There are currently two residences on the site: a 6,000 square foot primary single-family residence, and an approximately 2,000 square foot farm support residence (Van Gordon House).

2. Project Description and Background

The applicant proposes to construct a 3,000 square foot farm support residence with an attached, but structurally independent, 1,100 square foot garage. The project is proposed to replace an existing farm support residence damaged in the San Simeon earthquake of December 2003. Although currently red-tagged, the County approval does not require the removal of the damaged residence concurrent with the construction of the new residence. The new farm support residence is larger in size, proposed in a different location on the property, and requires new grading and installation of a new access road. Other project components include paved courtyard and patio areas and a circular turnaround driveway. To screen the development from public view, the project includes an engineered soil berm 10'3" tall with a footprint of roughly 7,000 square feet (40 x 175). The project plans show a "future barn" to be located behind the residence, but this is not included in the County's approval. The project plans are attached as Exhibit D.

The Commission recently acted on another coastal development permit appeal for this parcel (A-3-SLO-00-156). In May of 2004, the Commission approved conversion of the existing primary residence to a 5-unit bed-and-breakfast. To maximize protection of agriculture, the project was analyzed as a "supplemental non-agricultural use" and conditioned to require all remaining agricultural land to be placed in an agricultural easement. To date, the applicant has not exercised the permit.

3. Standard of Review for Appeals

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access



policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to approve a coastal development permit for the project. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the first public road and the sea, which is not the case with this project.

B. Substantial Issue Determination

The appellants’ contentions can be grouped into two issues: 1) Visual and Scenic Resources; and 2) Agriculture. The discussion below for each of these issues include: the relevant LCP policies, a description of the County’s action, the appellants’ contentions, and an evaluation of whether the contentions raise a substantial issue of conformity with the applicable LCP provisions.

1. Visual and Scenic Resources

a. Relevant LCP Provisions

The following are the relevant governing provisions from the San Luis Obispo Local Coastal Program:

Policy 1: Protection of Visual and Scenic Resources. *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Policy 2: Site Selection for New Development. *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created “pockets” to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Policy 4: New Development in Rural Areas. *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUIO.]*



Policy 5: Landform Alterations. Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUIO.]

In addition, the North Coast Area Plan of the LCP includes standards for site selection for new development. Areawide Standard 6 states:

North Coast Areawide Standard 6: Site Selection. Primary site selection for new development shall be locations not visible from Highway 1 as follows:

- a. Sites shall be selected where hills and slopes would shield development unless no alternative location exists or the new development provides visitor-serving facilities.
- b. New development shall be located so that no portion of a structure extends above the highest horizon line of ridgelines as seen from Highway 1.
- c. Where single ownership is on both sides of Highway 1, building sites shall be located on the east side of Highway 1 except for identified visitor-serving development.
- d. Development proposals for sites with varied terrain are to include design provisions for concentrating developments on moderate slopes, retaining steeper slopes visible from public roads undeveloped.

b. County's Action

The County approved project was determined by the Planning Director to be a nondiscretionary, non-appealable coastal development permit. The project was approved without conditions. Commission staff, however, has had numerous discussions with the County in an attempt to better understand the impacts and issues that were taken into account by the County in its nondiscretionary review of the CDP. Based on verbal and email communications, the County has indicated that of three site locations considered, the approved site would have the least impact on the public viewshed. To screen the development from public view, the County approved plans include an engineered soil berm, roughly 10-feet tall with a footprint of roughly 7,000 square feet (40 x 175).

c. Appellants' Contentions

With regard to scenic and visual resource protection, the appellants contend that the County approved project does not conform to the visual and scenic resource protection policies of the LCP for the following reasons:

- *The North Coast Area Plan Areawide Standard #6 requires that site selection for new development shall be locations not visible from Highway One. The new farm support quarters would be visible from Highway One. Alternative site locations may*



exist where hills and slopes would shield the development from public view. It is unclear if the project includes design provisions for concentrating development on moderate slopes, while retaining steeper slopes visible from public roads (Highway One) undeveloped. There is no evidence in the local record to establish whether the project is consistent with this LCP standard.

- *Visual and Scenic Resource Policies 1, 2, 4, and 5 serve to protect visual resources by requiring new development to be located in areas not visible from major public view corridors, be subordinate to the rural character of the area, and minimize landform alteration. The new farm support quarters would be visible from Highway One and does not appear to use slope created “pockets” to shield development as required by the LCP. An earthen berm proposed to aid in shielding the development from the view corridor of Highway One may appear as an unnatural landform alteration. The County file does not contain structural elevations, nor does it include a visual simulation of the proposed development to ensure the development is adequately screened within the public viewshed. The County file does not include any information about the use of vegetation to screen the development as required by Policy 4. Finally, the newly proposed access road to serve the farm support unit may also be visible within the public viewshed and may alter the rural character of the rolling grasslands and hillside in this area.*

d. Analysis

The project is subject to several LCP policies related to visual and scenic resources. In general, the policies serve to protect visual resources by requiring new development to be located in areas not visible from Highway One and other major public view corridors; minimize landform alterations; and when possible, use natural topography to screen development from public view.

The North Coast Area Plan Areawide Standard 6 requires that site selection for new development be in locations not visible from Highway One. More specifically, Standard 6(a) requires sites to be selected where hills and slopes would shield the development unless no alternative location exists. Standard 6(d) requires development proposals for sites with varied terrain (such as exists here) are to include design provisions for concentrating development on moderate slopes, while retaining steeper slopes visible from public roads undeveloped. The proposed project is inconsistent with this standard because, as approved by the County, the project will be visible from Highway One, does not use hills and slopes to shield the development, and allows development on a visible hillside when alternative locations exist completely out of view from Highway One.

According to the County, the new farm support residence would be visible from Highway One for a short 90-degree view, and from roughly 7,000 feet away. The County asserts that an engineered soil berm will completely screen this view and there is no chance that the residence will obstruct views from the nearby San Simeon State Park. The County has stated in recent email communications with Commission staff that three site locations were considered for the replacement farm support residence. Of the three sites considered to date, the County believes the proposed site would have the least impact to visual and scenic resources. However, the County's



review and approval of the proposed project is based primarily on informal field reviews made while visiting the site. Although some siting and design considerations were made during the local review, no written alternatives analysis or formal visual simulations were performed to confirm these assertions.

Visual and Scenic Policy 2 aims to protect public views through the use of slope created “pockets” to shield new development. The County approved project is inconsistent with this policy because the farm support residence is located atop a windswept ridge. Commission staff has studied topographic maps and aerial photos of the project site and given the large size of the parcel (193 acres) and the undulating terrain that characterizes the property, it is likely that alternative sites are available completely out of the viewshed. For example, the existing farm support residence to be replaced is located in a steep valley and completely out of public view. Replacement of the existing farm support quarter in its current location would not be visible from Highway One. However, it should be noted that this location would raise other LCP issues that would need to be considered before a project could be approved at that location.²

The County file does not include any information about the use of vegetation to screen the development as required by Policy 4. Concerns have been raised that large landscape trees and vegetation used to screen the residence from public view would look unnatural. An example of this can be found onsite, as lush vegetation used to shield the primary residence appears out of place in the rural grasslands (see photos attached in Exhibit E). In this case, it appears the only screening technique to be used is an engineered soil berm. It is possible that native vegetation/grasses could be planted in conjunction with the earthen berm to better blend with the rural agrarian landscape.

The County approved project is inconsistent with Policy 5 because it does not minimize landform alterations within the viewshed. The County approved project includes a large engineered soil berm located in front of the residence as a means to block the house from Highway One. The sole use of an earthen berm to screen the residence raises additional concerns. First, it is unclear if the engineered berm will be effective in completely screening the new residence. A line of site profile provided by the County shows the berm screening only up to the first 8.0' of the house. Should the residence be taller than 8'0" above finished floor elevation, portions of the residence above this elevation would be visible. A profile and/or elevation of the new residence in relation to the berm are not included in the local approval. Second, the berm itself is quite large. If not appropriately designed and/or vegetated, the berm itself could appear as an unnatural landform alteration. The engineered berm is roughly 10'3" tall, 40 feet wide, and 170 feet long (roughly 7,000 s.f. footprint). Additional area would also be expected should the berm be tapered or smoothed along its edges to blend with the contours of the natural terrain. It has been the Commissions experience that soil berms can sometimes look unnatural and lack effectiveness particularly in open rural landscapes such as this. Finally, extensive grading and earthmoving for the home, earthen berm, and the newly proposed access road may also be visible and may alter the natural form of the hillside.

² Replacing the destroyed farm support residence with a new one in the same location would result in a new house within 100 feet of Van Gordon Creek and on prime soils. To demolish and re-establish a farm support residence in the same location would require a Minor Use Permit/CDP. Additional review would also be required due to the fact that the existing farm support residence may qualify as “historical”. Demolition of a historic (H) structure is appealable to the Coastal Commission.



In conclusion, the County record does not justify the site selection for the new farm support residence. The project is inconsistent with the LCP because it would be visible from Highway One when alternative locations exist outside of public view. The project entails significant amounts of grading and landform alteration within the public viewshed and does not blend with the unique features of the landscape. In the most recent County action, which is the subject of this appeal, there has been no formal visual impact analysis in the coastal development permit review, and therefore it is unclear if all of the relevant Visual and Scenic resource protection standards were considered. Based on the limited information provided, it appears that the County approved project has not been sited or designed to minimize visual and scenic resource impacts.

Therefore, a substantial issue is raised by the appellants' contentions regarding visual and scenic resources.

2. Agriculture

a. Relevant LCP Provisions

The following policies from San Luis Obispo County's *Coastal Plan Policies* apply:

Agriculture Policy 1: Maintaining Agricultural Lands. Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.

Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses.

All prime agricultural lands and other (non-prime) lands suitable for agriculture are designed in the land use element as Agriculture unless agricultural use is already limited by conflicts with urban uses.

Permitted Uses on Prime Agricultural Lands. Principal permitted and allowable uses on prime agricultural lands are designated on Coastal Table O – Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the prime agricultural soils, that the least amount of prime soil possible is converted and that the use will not conflict with surrounding agricultural lands and uses.

Permitted Uses on Non-Prime Agricultural Lands. Principal permitted and allowable uses



on non-prime agricultural lands are designated on Coastal Table O – Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the non-prime agricultural soils, that the least amount of non-prime land possible is converted and that the use will not conflict with surrounding agricultural lands and uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Agriculture Policy 4: Siting of Structures. *A single-family residence and any accessory agricultural buildings necessary to agricultural use shall, where possible, be located on other than prime agricultural soils and shall incorporate whatever mitigation measures are necessary to reduce negative impacts on adjacent agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.050 OF THE CZLUO.]*

The LCP also has specific requirements for farm support quarters that apply to this project. Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.167 states in relevant part:

23.08.167 – Residential Uses in the Agriculture Category: *Dwellings in the Agriculture land use category, including primary housing and farm support quarters are allowed accessory uses on the same site as an agricultural use, subject to the standards of this section. Such dwellings may include mobilehomes, subject also to the standards in Section 23.08.163 (Individual Mobilehomes).*

a. Limitation on dwelling location – prime soils. *Primary family housing and farm support quarters shall not be located on prime agricultural soils unless there is no other building site on the ownership that is all of the following:*

- (1) On other than prime soils;*
- (2) Less than 20 percent in slope;*
- (3) Not within a designated Flood Hazard Combining Designation.*

c. Farm support quarters – Single family dwellings and mobilehomes: *Includes farm or ranch housing for farm help or a caretaker employed on land in the same ownership as the housing. Farm support quarters are allowable in the Agriculture and Rural Lands categories only when the housing is in direct support of existing agricultural production activities on lands owned or leased by the farm housing owner, subject to the following standards:*

- (4) Status of residents:* *Occupancy of farm support quarters in the form of single-family dwellings or mobilehomes is limited to the full-time employees and the spouse and children of full-time employees of agricultural or ranching operations conducted by the owner of the farm support housing, or lessor or the housing owner's acreage. Farm support quarters are not to be rented or leased to individuals other than farm help and their families. An agreement between the property owner and the county limiting occupancy to farm workers shall be executed*



and recorded prior to building permit issuance.

b. County's Action

The County approved project was determined by the Planning Director to be a nondiscretionary, non-appealable coastal development permit. The project was approved without conditions. However, apparently pursuant to CZLUO Section 23.08.167, the County informally required the applicant to provide proof of a recorded farm support agreement prior to issuance of the permit. This information was not included in the local approval transmitted to the Commission.

c. Appellants' Contentions

With regard to Farm Support quarters on Agricultural lands, the appellants contend in full:

- ⇒ *Residential Density and Farm Support Quarters – CZLUO Section 23.08.167. There is not evidence in the County record showing that the requirements for farm support quarters prescribed under CZLUO section 23.08.167 have been met. Without addressing the future use of the existing farm support quarters and assuring through a deed restriction that the new residential structure will be used only as farm support in perpetuity, the project will result in two primary residences on the site, in excess of the residential density allowed by the LCP on agricultural lands. Additionally, the County approval does not require removal of the damaged structure that the new residence is intended to replace, leaving the potential for three residences on the site, which is inconsistent with the Agricultural policies of the LCP.*
- ⇒ *Agriculture – Policies 1 and 4. The proposed project has not been sited and designed to maintain agricultural lands to the greatest degree feasible. The lengthy access road and the large amount of grading will convert more agricultural land to residential use than necessary. Other locations for the farm support quarters may be more compatible with continued agricultural use of the site. In addition, non-compliance with residential density limits on Ag. lands, as discussed above, jeopardizes the integrity of the agriculture land use designation thereby threatening continued agricultural use on the site and throughout the planning area. Lastly, it is unclear if the County approved project is located on non-prime agricultural soils as required by the LCP.*

d. Analysis

The LCP policies cited above generally require that that maximum amount of agricultural land be maintained. In addition, CZLUO Section 23.08.167 establishes criteria that must be met for a farm support quarters to be established on agricultural lands.

Farm Support Quarters

Farm support quarters are allowable in the Agricultural land use category only when the housing is in direct support of existing agricultural production activities. In this case, the applicant maintains approximately 24-acres of avocados and leases portions of the 193-acre property for cattle grazing.



Under the LCP ordinance establishing the density of farm support quarters (23.08.167(c)(5)), a single farm support residence would be allowed.

CZLUO Section 23.08.167(c)(4) requires that a deed restriction be recorded assuring that the new residential structure will be used only as farm support. Without this deed restriction, the project will result in two primary residences on the site, in excess of the residential allowed by the LCP on agricultural lands. Although the County has verbally indicated that an agreement with the landowner was recorded, a copy of the written agreement was not provided in the local record. The Commission cannot establish, therefore, whether the requirements of section 23.08.167(c)(4) have been met.

Additionally, the County approval does not require removal of the existing damaged farm support unit that the new residence is intended to replace. Not addressing the damaged structure leaves open the possibility for three residences on the site. This is inconsistent with the residential density and farm support requirements of the LCP for agriculture.

Agriculture

The County approved project does not maintain agricultural lands to the greatest degree feasible as required by the LCP. The project involves construction of a lengthy access road (at least ¼ mile long and 14 feet wide) and significant amounts of grading (approximately 3-4 thousand cubic yards). As such, the project would convert more agricultural land to residential use than may be necessary. This is land that could be used for cattle grazing or some other agricultural use. The land under which the damaged structure is located is considered prime agricultural soil and could be converted back to avocado production. In addition, the siting and design of the project may unnecessarily fragment the usable agricultural portions of the parcel, further diminishing its value as agricultural land. Combined with the residential density non-compliance concerns discussed above, conversion of large amounts of viable agricultural land to residential use threatens continued agriculture on the site and throughout the planning area. Lastly, there is no evidence in the County approval showing that the new farm support avoids prime soils as required by the LCP.³

Therefore, a substantial issue is raised by the appellants' contentions regarding farm support residences and agriculture.

³ Under the LCP, prime agricultural soils or land means any of the following: a) All land which qualifies for rating as class I or II in the Soil Conservation Service land use capability classifications; b) Land which qualifies for rating 80 through 100 in the Storie Index Rating; c) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture; d) Land planted with fruit-or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre.

